BHUTTO
THE TRUTH ABOUT HIS RULE AND HIS TRIAL

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Zulfikar Ali Bhutto is perhaps the only head of a government to have been convicted of conspiracy to murder—a conspiracy hatched and carried out while he was in power. The conspiracy, according to the judgement of a full bench of the oldest High Court in Pakistan, was aimed at the murder of one of Bhutto's exceptionally stubborn political opponents, Ahmad Raza Kasuri; but the plan misfired and resulted in the death of the intended victim's aged father, Nawab Muhammad Ahmad Khan, who happened to be driving together with him at the time of the attack.

Of the four other persons sentenced to death together with Bhutto, three had confessed to the murder but pleaded that they had committed the crime under the orders of their superior officers in the Federal Security Force.

All the convicted offenders have now gone in appeal to the Supreme Court of Pakistan, where the case will be heard and decided finally in accordance with the ordinary law of the land under the normal rules of evidence and procedure.

In the High Court too, Bhutto's trial was conducted in full accord with these laws and rules. For the most part, the trial was conducted in open court

and in the full light of Press coverage; it was only during the last stage that the conduct of the accused persons compelled the bench to use its power under the Code of Criminal Procedure to order further proceedings in camera. The reasons for the order have been detailed in the published judgement.

In view of the inadequate knowledge in most foreign countries about the facts and circumstances of the trial and the laws and procedures under which it was conducted, like any criminal case of that nature, the relevant facts have been described at some length in Part II of this booklet. But before proceeding to that part it would be relevant to present briefly a picture of how the law and its agencies, and the rights and liberties of the people, were treated when Bhutto himself was in power in Pakistan. This appears in Part I.

PART I

Glimpses of Bhutto's Rule

Even a casual examination of the record of the Bhutto regime shows a cupboard full of skeletons.

To take murder first. Long before Ahmad Raza Kasuri's father, Nawab Muhammad Ahmad Khan, was shot in the dark, two political figures in the Punjab in opposition to the ruling party had been killed in broad daylight: Nazir Ahmad, a member of the National Assembly belonging to the Jamaat-i-Islami, at Dera Ghazi Khan, and Khwaja Mohammad Rafiq, of the Pakistan Democratic Party, in Lahore. These murders occurred during the first year of Bhutto's rule, but the culprits have remained untraced so far. So have the killers of Asadullah Mengal, son of the noted Baluchi leader, Sardar Ataullah Mengal. According to Amnesty International's report on Pakistan, published shortly before the end of the Bhutto regime, "Asadullah was kidnapped from his car on February 6, 1976. Asadullah's companion died instantly from machine gun fire and he himself received gunshot wounds in the back and leg and was abducted. There has been no information since about his whereabouts. According to the Opposition, the kidnap was staged by the Federal Intelligence Agency

(who are reported to have followed him for three days prior to the abduction), and a *habeas corpus* petition to this effect was presented in the Lahore High Court in April 1976. According to subsequent reports, he was taken to Baluchistan, where he died. The circumstances of his death are not known."

Investigations in relation to these criminal transactions have borne no fruit so far, although there is a widespread feeling in the country that these were all cases of well organised conspiracy sponsored by the then Prime Minister to get rid of his political opponents.

An exceptionally ghastly case, now under hearing in a District Sessions Court, is that of the murder, in cold blood, of six disciples of the Pir of Pagara, the spiritual leader of the Hur tribe in Sind, who was one of the prominent Opposition figures during the Bhutto regime.

The victims, it is alleged by the prosecution, had been bailed out by the Sind High Court after their arrest under the Goonda (disorderly persons) Act, some time in 1973; but instead of being released on bail, they were killed in cold blood and it was reported that they had died in an encounter with the Police. Among the accused in this case are Jam Sadiq Ali (a former Provincial Minister in Sind, now absconding abroad), and two key figures in the local administration in the concerned district at the time of the occurrence.

Apart from political murders, the record of the Bhutto regime is thickly smeared with countless cases of the torture of political dissidents, gross violations of the dignity and worth of the human personality, and utter disregard of the rights and liberties of the individual. Here is the finding of an Amnesty International mission which visited Pakistan in the summer of 1976, when the Bhutto regime was at the height of its power:

"During the Amnesty International Mission, the delegates were told about alleged ill-treatment and torture reported in Baluchistan and the North-West Frontier Province, particulary since 1974. Unfortunately, the delegates could not personally verify most of this information, but they did obtain certified copies of signed statements of seven defendants made in court, most of whom were charged under the Explosive Substances Act with offences allegedly committed in the North-West Frontier

Province. The prisoners were tried by Special Courts, where they retracted the confessions made earlier to the Police.

"The alleged ill-treatment included severe beatings, threats of execution, insertions of chilli in the anus, assaults on sensitive parts of the body, and threats to maltreat members of the prisoner's family............

"Since the Amnesty International visit to Pakistan, recent allegations of torture have also been reported from the Punjab. In one of these cases, the judges of the Supreme Court of Pakistan observed that they: '.........were shocked to learn about the brutal torture and the beating given to a citizen by the officials of the agency responsible for maintaining law and order'.

"The court made these observations when dismissing an appeal filed by six police officers against their conviction by the High Court of Lahore for having committed contempt of court. The police officers in question had disobeyed an order of the High Court granting bail to Sh. Zahoor Ahmad and directing that he should not be arrested without the prior permission of the court. Despite this, Mr. Ahmad was arrested by Shah Khan Niazi of the Police Station Kabirwala. While in custody, Zahoor Ahmad was subjected to 'brutal torture and severe beating' by Mr. Niazi and five other police officers.

"............the delegates attach a high degree of credibility to these few but significant accounts, and the other reports quoted in this chapter, since they appear to reveal a pattern of police intimidation in order to extract 'confessions' from suspects after arrest.

"In a number of cases known to Amnesty International harassment of political opponents has been extended to members of their families. The most common practice appears to be to institute a number of cases against the relatives of political opponents, which usually have to be withdrawn in court. Family members may even face imprisonment under these circumstances.

"Fortyseven cases were registered against Chaudhry Zahur Elahi, member of the National Assembly, after his arrest on February 7, 1976, and 83 cases have since been registered against various members of his family."

The worst instance of the torture of political dissidents and the vicarious punishment of their family members is that of J.A. Rahim, a politician already in his seventies and once among the leading lights of the People's Party and the Bhutto Government. Son of a distinguished judge and jurist, the late Sir Abdur Rahim, who presided over the Indian Legislative Assembly before Independence, J.A. Rahim is a retired officer of the Pakistan Foreign Service; even before entering politics, he was well known as Pakistan's Ambassador in several countries, including France and Western Germany. He was among the founding fathers of the People's Party in 1967, its first Secretary-General and the author of its radical action programme and manifesto. For over two years and a half, he was the senior-most member in Bhutto's Federal Cabinet and was known for his strong leftist opinions.

The story of Rahim's dismissal, arrest and torture received wide publicity after the fall of the Bhutto regime; but its origin had better be recalled from the file of the independent journal *Outlook* of Karachi, which immediately reported the beginning of Rahim's persecution in the summer of 1974.

"In the early hours of Wednesday morning (July 3)," the paper reported in its issue of July 13, 1974, "Mr. Saeed Ahmad Khan (the Prime Minister's Security Chief) entered Mr. Rahim's residence in Islamabad with the letter of dismissal. The telephone was ripped out, the guard removed, and in the reported scuffle, Mr. Rahim and his son (recently appointed in the Planning Commission) received blows from the rifle butts of Federal Security Force men. The 70-year old Rahim and his son, bruised and bleeding, are reported to have been taken to the Islamabad Police Station. Later, they were removed to the VIP room of the Combined Military Hospital, Rawalpindi... he looked pale and totally exhausted and could hardly utter only a few words......"

Outlook was closed down the following week, and little was reported thereafter about Rahim's circumstances, until his arrest, together with his son, in May 1976, presumably under the Defence of Pakistan Rules. The horrible story of the torture and humiliation to which he was subjected thereafter was told by himself at a news conference after his release in July 1977. It may be summed up as under:

On May 2, 1976, Rahim was suddenly taken into custody from his house in Karachi and dragged to a police station, being "assaulted all the way". Later, he

was blind-folded and driven to an unknown destination. There, still blind-folded, he was held by some men one of whom "started by seizing my nostrils and abusing me...... "I was punched hard on my kidneys. I collapsed under the blows, was hauled up again and beaten......One method of torture tried was to throttle me to the point that I would be nearly unconscious ... One of the men tried to burn me with his cigarette."

Rahim was told that they had orders to kill him and exterminate his whole family; that his son, Sikandar, "had been the victim of an unnatural offence" and was in a "pitiable condition".

Long before Bhutto's fall, stories of the torture of political dissidents under his regime had found their way into the columns of some responsible foreign newspapers through their visiting correspondents:

In Lahore, wrote Walter Schwarz of *The Guardian* (London), on September 10, 1973, "I was shown writ petitions moved in the High Court by Mr. Mahmud Ali Kasuri (a leading lawyer and a Cabinet colleague of Bhutto during the first year of his regime) on behalf of detained clients. The allegations are supported by medical evidence.

"One petition concerns Mr. Malik Qasim, a barrister and former member of Parliament, who was Secretary-General of the Pakistan Muslim League. He was arrested during the civil disobedience movement on August 25.

"The petition says that, despite his status and age, he was stripped naked and made to lie on his belly. In this position two stout men stood on his body, one jumped on his back and the second stood on his legs. The men jumped on him until he thought his bones would crack, while others beat him with their fists. Several times two men put their fingers in his mouth from opposite directions, causing him excruciating pain.

"What the petition calls 'a new kind of torture' was apparently inflicted on a religious *maulana*—a member of the Muslim Jamiat-ul-Ulema Party......(he) was stripped naked and a naked prostitute was made to sit naked on his legs.

"The petition claims that 'the officers of the Punjab Government specialise in torturing such arrested persons. This cannot be so systematically done without basic instructions issued by the higher authorities'.

"The Opposition is passionately convinced that these 'higher authorities' are Bhutto himself, determined to show that he will brook no opposition. The most disturbing recent development is that even supporters of Bhutto are beginning to feel that his ruthless tactics have gone too far. That his methods and temperament are 'Fascist' is a phrase heard on all sides. This is not only a matter of arrests and strong arm tactics. A large para-military security force has been formed, directly controlled by the Prime Minister."

Widespread resort to torture was accompanied with the abduction of several political dissidents. Amnesty International reported some of these cases in 1976, for instance:

"Chaudhry Irshad, a member of the Provincial Assembly, has been missing since 6 October, 1975. He is one of three dissident members of the Pakistan People's Party whose whereabouts have been unknown since October 1975 (the other two being Mian Iftikhar Ahmad Tarri and Mian Mohammad Aslam).

"According to reliable reports received by Amnesty International, Ch. Mohammad Irshad was arrested on 6 October 1975. His arrest, in Gujranwala, was witnessed by his younger brother, Ch. Mohammad Nawaz, and Mr. Z.A. Bajwa, a member of the National Assembly. In an affidavit presented to the Lahore High Court on 5 November, 1975, Raja Mohammad Azad Khan, advocate and former member of the Legislative Assembly of Azad Kashmir, stated that he had seen Mr. Irshad in Dalai Camp, Muzaffarabad, Azad Kashmir, after his own arrest on 8 October and his subsequent detention in Dalai Camp, a military detention camp in Azad Kashmir. The Government have denied any knowledge of his arrest. His brother, Mohammad Nawaz, submitted a *habeas corpus* petition to the Court and the case is still pending before the Lahore High Court."

Immediately after the fall of the Bhutto regime in July 1977, Ch. Irshad, Iftikhar Tarri, Mian Aslam and some other persons unlawfully detained in Dalai Camp were released and the cases relating to their wrongful confinement pending in the High Court were revived. Subsequently, several officers of the Federal Security Force involved in these cases were convicted of contempt of court, the boss, Masood Mahmood, being sentenced to six months' imprisonment—the maximum punishment prescribed

under the law of contempt. He was found guilty of "the gravest contempt, unparalleled in the annals of legal history." On the basis of facts proved in the trial the Court also issued notices to Zulfikar Ali Bhutto, one of his former Cabinet colleagues, the former Chief Minister of the Punjab and two top bureaucrats.

The rule of law, administered by an independent judiciary, is the sheet-anchor of a democratic political order as well as of the fundamental rights and liberties of the individual. The superior courts in Pakistan have a proud record of resistance to arbitrary authority, not only in normal times but also during the long years that Pakistan has lived under Martial Law. These courts were an eyesore to Bhutto's authoritarian regime, and he set about curbing their authority and independence early in the day.

In September last year, the new Chief Justice of Pakistan, Mr. Justice Anwarul Haq, replying to a Court reference in his honour, observed that during the previous regime, judges of the superior courts were "abused in Parliament" and a judge of the Supreme Court serving on a review board for detenus' cases was "threatened".

The Chief Justice did not specify the incident, but that was perhaps during the earlier phase of the Bhutto regime. Also during that phase occurred the notorious incident in which the District Judge of Sanghar, in Sind, was arrested within hours of a false criminal complaint registered with the Police by the Secretary of the local People's Party; he had to pray to the High Court for bail.

The arrest led to the institution of contempt of court proceedings against the concerned officials by several office-bearers of Bar Associations. They alleged that, after his release from arbitrary arrest, the Judge had been intimidated by the District Magistrate and asked to leave the district together with his family that very night. That contempt case is still pending before the Sind High Court.

The abuse of judges in Parliament, to which the Chief Justice referred in his address, had been occasioned by the debate on the Fourth and Fifth Constitutional Amendment Bills through which the Government sought to curb the powers of the superior courts and acquire a lever to manipulate the appointment of Chief Justices.

The Constitution (Fourth Amendment Act), which became law towards the end of 1975, severely limited the power of the High Courts to grant bail. It amended

Article 199 of the Constitution to deprive these courts of the power to grant bail to any person detained under any preventive detention law or to prohibit detention by Executive order. Only the Supreme Court—practically beyond the reach of men of modest means—was thus left with the power to grant bail in detention cases.

Within a year, there was another assault on the authority and independence of the judiciary by way of the Fifth Amendment Act. The High Courts were deprived of the power to order interim relief, including bail, under the extraordinary powers vested in them by Article 199 of the Constitution. Accordingly, the High Courts lost the power to grant bail or pass an order prohibiting the making, or suspending the operation, of an order for the detention of any person held under any preventive detention law. They were also deprived of the power to order the release on bail of any person awaiting trial or convicted by a court or tribunal.

Referring to the withdrawal of the High Courts' powers to grant interim bail, Prime Minister Zulfikar Ali Bhutto accused the courts, without offering any evidence, of "transgressing" into the functions of the Executive. In fact, no such evidence is available in the annals of Pakistan's judiciary, which has been no less sensitive to the dictates of national security than to the need for protecting the individual against the arbitrary exercise of Executive authority.

Some of Mr. Bhutto's ministers, however, went further than the Prime Minister himself in attacking the superior courts and warning them against any "subversion of the Constitution". One of them said in Parliament: "If there is any attempt on the part of the judiciary to assume to itself or to arrogate to itself any power which the Constitution or the law does not contemplate for that agency or authority, including the judiciary, whether it is the judiciary or any other authority, that action will be tantamount to subversion of the Constitution and high treason as mentioned in the Constitution." (Obviously, no minister could have said such things in Parliament except at the instance of Bhutto himself.)

The impairment of the power of the courts to check Executive tyranny was accompanied with arbitrary changes in the constitutional provisions relating to the appointment of the Chief Justices of the superior courts. Ever since High Courts

began to be set up in this subcontinent, nearly two centuries ago, the appointment of a Chief Justice had been a permanent one, ending only with the retirement or death of the incumbent. Nobody in Pakistan before Bhutto had thought of a departure from that time-honoured system, which was maintained under the Constitutions of 1956 and 1962, and even under Bhutto's own Constitution of 1973. But two years later, he felt himself powerful enough to tamper with that arrangement also. The Fifth Constitutional Amendment introduced, with retrospective effect, a tenure system for the Chief Justices of the superior courts—five years for the Chief Justice of Pakistan and four years for the Chief Justice of a High Court. (This was done to enable the Executive to get rid of two High Court chiefs who had proved "difficult".) Moreover, it left the Executive absolutely free to appoint any judge as Chief Justice irrespective of his seniority on the bench. A little later, in order to oblige the then Chief Justice of Pakistan, who was due to retire early in 1977, the Fifth Amendment was amended by the Sixth Amendment to enable a Chief Justice who might attain the age of retirement before completing his tenure to continue in office till the completion of the tenure. This amendment came only about a couple of months before the Chief Justice was due to retire.

Throughout the Bhutto regime, judicial appointments continued to be influenced by political or other extraneous considerations, and Mr. Bhutto has left at least one document to show beyond a doubt that he regarded judicial appointments as a part of the Executive's patronage. In a letter to the Chief Minister of Baluchistan, dated June 15, 1977, which now forms a part of the Supreme Court records, Mr. Bhutto advised him that in "making new appointments of judges, preference should of course be given to senior advocates loyal to the People's Government."

(Annexure to Mr. A.K. Brohi's reply on behalf of the Federation of Pakistan to the rejoinder by Mr. Z. A. Bhutto and Mr. Abdul Hafeez Pirzada in Mrs. Nusrat Bhutto's petition in Supreme Court, challenging the detention of Mr. Z. A. Bhutto and others under Martial Law Order 12 of 1977.)

About the same time, in Sind, an advocate belonging to the People's Party who was facing charges of grave irregularities in a bye-election, was elevated to the bench of the High Court.

Another inroad into the independence and prestige of the higher judiciary was the creation of Special Courts to try "offences affecting the security, integrity or sovereignty of Pakistan, including offences of high treason." These Courts, set up through an amendment to the normal criminal law, were manned by judges handpicked by the Executive and the procedure laid down for them by statute involved certain departures from the normal law directed against the accused. For instance, these Courts could proceed with a trial in the absence of any accused person. On the other hand, the regular courts were prohibited from ordering the release on bail of any person accused in a case triable by a Special Court. There was only one appeal against decisions of a Special Court—in the Supreme Court.

The trial of Khan Abdul Wali Khan and other leaders by a Special Court set up under this statute has received world-wide publicity. (It was quashed by the present Martial Law Administration.)

These Special Courts were apart from the special tribunals set up under the Defence of Pakistan Rules, which remained in force throughout the Bhutto Regime because it refused to end the "State of Emergency" proclaimed in 1971 on the outbreak of hostilities with India. The most notorious case tried by these special tribunals was that of Meraj Mohammad Khan, once Bhutto's right hand man and for nearly two years his colleague in the Federal Government. He was arrested in January 1975 and put on trial in a Special Court on the charge of having made an objectionable speech. He was convicted and sentenced to four years' rigorous imprisonment. On appeal, the High Court found the trial vitiated by "grave irregularities in procedure" which had resulted in substantial and grave injustice to the appellant. The High Court recorded "the unhappy impression that while the appellant's counsel were seeking instructions on the evidence to be led in defence, the Tribunal, without waiting for a reply, pronounced the judgement" (on a date when the case had been fixed for "further hearing").

On merits, too, the High Court found the conviction unjustified and the sentence harsh; it therefore set aside the decision of the Tribunal and acquitted Meraj Mohammad Khan.

These are only a few glimpses of the burning iniquities that marred the Bhutto regime and generated among the people a degree of disaffection and hatred towards

the Government which they had never experienced before. The disaffection found striking expression in the severe anti-Bhutto upsurge during the election campaign, early in 1977, and unnerved the leaders of the regime. They sought to stem the tide through massive rigging of the elections but only succeeded in swelling it until it became a flood that ultimately swept away the regime.

The circumstances and events that made up the final act in the catastrophe have been summed up authentically by the Supreme Court in its judgement on Mrs. Nusrat Bhutto's petition against the detention of her husband and some other leaders of the People's Party. It says:

"On the basis of the material thus brought to the notice of the Court by Messrs A.K. Brohi and Sharifuddin Pirzada, consisting mostly of official reports and decisions as well as contemporary reports in the newspapers, I think the Court is entitled to take judicial notice of the following facts:

"1. That from the evening of the 7th of March 1977 there were widespread allegations of massive official interference with the sanctity of the ballot in favour of candidates of the Pakistan People's Party.

"2. That these allegations, amounting almost to widespread belief among the people, generated a national wave of resentment and gave birth to a protest agitation which soon spread from Karachi to Khyber and assumed very serious proportions.

"3. That the disturbances resulting from this movement became beyond the control of the civil armed forces.

"4. That the disturbances resulted in heavy loss of life and property throughout the country.

"5. That even the calling out of the troops under Article 245 of the Constitution by the Federal Government and the consequent imposition of local Martial Law in several important cities of Pakistan, and the calling out of troops by the local authorities under the provisions of the Code of

Criminal Procedure in smaller cities and towns did not have the desired effect, and the agitation continued unabated.

"6. That the allegations of rigging and official interference with elections in favour of candidates of the ruling party were found to be established by judicial decisions in at least four cases, which displayed a general pattern of official interference.

"7. That public statements made by the then Chief Election Commissioner confirmed the widespread allegations made by the Opposition regarding official interference with the elections, and endorsed the demand for fresh elections.

"8. That, in the circumstances, Mr. Z.A. Bhutto felt compelled to offer himself to a referendum under the Seventh Amendment to the Constitution, but the offer did not have any impact at all on the course of the agitation, and the demand for his resignation and for fresh elections continued unabated with the result that the referendum plan had to be dropped.

"9. That in spite of Mr. Bhutto's dialogue with the leaders of the Pakistan National Alliance and the temporary suspension of the movement against the Government, officials charged with maintaining law and order continued to be apprehensive that in the event of the failure of the talks there would be a terrible explosion beyond the control of the civilian authorities.

"10. That although the talks between Mr. Bhutto and the Pakistan National Alliance leadership had commenced on the 3rd of June 1977, on the basis of his offer for holding fresh elections to the National and Provincial Assemblies, yet they had dragged on for various reasons, and as late as the 4th of July 1977, the Pakistan National Alliance leadership was insisting that nine or ten points remained to be resolved and Mr. Bhutto was also saying that his side would similarly put forward another ten points if the General Council of PNA would not ratify the accord as already reached on the morning of the 3rd of July 1977.

"11. That during the crucial days of the deadlock between Mr. Z.A. Bhutto and the Pakistan National Alliance leadership the Punjab Government sanctioned the distribution of fire-arms licences on a vast scale to its party members and provocative statements were deliberately made by the Prime Minister's Special Assistant, Mr. G.M. Khar, who had patched up his differences with the Prime Minister and secured this appointment as late as the 16th of June 1977: and

"12. That as a result of the agitation all normal economic activities in the country stood seriously disrupted, with incalculable damage to the nation and the country.

"In the light of these facts, it becomes clear, therefore, that from the 7th March'77 onward, Mr. Z.A. Bhutto's constitutional and moral authority to rule the country as Prime Minister stood seriously eroded. His Government was finding it more and more difficult to maintain law and order, to run the ordinary administration of the country, to keep open educational institutions, and to ensure normal economic activity.

"The constitutional authority of not only the Prime Minister but also of the other Federal Ministers, as well as of the Provincial Governments, was being repudiated on a large-scale throughout the country. The representative character of the National and the Provincial Assemblies was also not being accepted by the people at large. There was thus a serious political crisis in the country leading to a breakdown of the constitutional machinery in so far as the executive and the legislative organs of the State were concerned. A situation had, therefore, arisen for which the Constitution provided no solution. It was in these circumstances that the Armed Forces of Pakistan, headed by the Chief of Staff of the Pakistan Army, General Mohammad Zia-ul-Haq, intervened to save the country from further chaos and bloodshed to safeguard its integrity and sovereignty and to separate the warring factions which had brought the country to the brink of disaster. It was undoubtedly an extra-constitutional step, but obviously dictated by the highest considerations of State necessity and welfare of the people.......

"It was precisely for this reason that the declaration of Martial Law on the morning of the 5th of July 1977 was spontaneously welcomed by almost all sections of the population, which heaved a sigh of relief after having suffered extreme hardships during the unprecedented disturbances spread over a period of nearly four months."

PART II

Bhutto's Trial

The case in which the Lahore High Court has sentenced Zulfikar Ali Bhutto to death on a charge of conspiracy to murder is not of recent origin. The murder occurred towards the end of the year 1974, and within hours of the occurrence, Ahmad Raza Kasuri, son of the victim and a member of the National Assembly, lodged a report with the Police in which, apart from narrating the details of the event, he accused the then Prime Minister of Pakistan, Zulfikar Ali Bhutto, of being the principal author of the crime.

The murder, which occurred in the early hours of November 11, 1974, was reported in the Press on November 12. The reports were accompanied with a statement by the Chairman of the Executive Committee of the Pakistan Bar Council expressing the suspicion that the crime was politically motivated. Some newspapers also carried a statement by the distinguished Pakistan lawyer, Mahmud Ali Kasuri, who recalled the earlier murders of several political leaders, for instance, Dr. Nazir Ahmad, Khan Abdul Samad Achakzai, Maulana Shamsuddin and Khwaja Mohammad Rafiq,

and demanded that there should be an end to "political murders". (A copy of the daily *Dawn's* report of the incident and the initial reactions is Appendix-1.)

In view of these political overtones of the case, the Government immediately appointed a judge of the Lahore High Court, Mr. Justice Shafiur Rahman, to conduct an inquiry into the circumstances of the crime.

In his statement before the Tribunal of Inquiry, Ahmad Raza Kasuri, son of the victim of the murder, gave a detailed account of the political hostility between himself and the then Prime Minister, Zulfikar Ali Bhutto. This hostility, he alleged, originated, before Bhutto's ascent to power, in Kasuri's opposition to Bhutto's policy on the East Pakistan issue. He alleged that he had been attacked in Karachi, in October 1971, to prevent him from proceeding to Dacca on a political tour. After Bhutto's assumption of power, he added, he and his brother had been shot at when they visited a camp of war-displaced persons in their home town of Kasur. He alleged several other attacks on his person, of which the most serious was a firing on his car by an automatic weapon from a jeep in Islamabad, in August 1974. On the same day, he stated, the matter was taken up both on the floor of the Senate and before a Special Committee of the House. "Some members of the National Assembly of Pakistan took the entire matter ...... in a very light mood, which gave sufficient encouragement to the culprits to try their luck again to physically eliminate me on some future date."

In his statement, Ahmad Raza Kasuri also referred to a privilege motion which he had filed in the National Assembly as far back as June 4, 1974, alleging that "some *goondas* (toughs) are trying to find out" his whereabouts and that "he (had) also received threatening calls to face dire consequences" after he had had an "altercation with Mr. Z.A. Bhutto on June 3."

Kasuri also alleged that the Police had initially refused to write the first information report of the murder of his father because he had "accused the Prime Minister of Pakistan of this murder". Later, a statement was written by a friend of the family and it was signed by me............and handed over to the Senior Superintendent of Police.

The report of the inquiry, submitted early in 1974, was never published; but certain documents relating to it filed later in the High Court during the trial of the murder case are significant.

One of the exhibits, according to the judgement, is a note by Saeed Ahmad Khan to the Director-General of Information and Broadcasting proposing that publicity might be given "to the statements of two specified officers of the Lahore Police before the inquiry tribunal." The portions to be given publicity were sidelined ...... These statements were given publicity in the newspapers on the 30th January 1975. Despite the publicity given to a portion of the inquiry proceedings, the principal accused (Zulfikar Ali Bhutto) did not agree to the publication of the inquiry report of the Tribunal. However, in the course of the trial, Bhutto's counsel sought to rely upon certain parts of the report, but the Court held it "inadmissible in evidence".

While the Tribunal's inquiry was pending, the Speaker of the National Assembly ruled out two privilege motions, one by Ch. Zahur Elahi of the Pakistan Muslim League, and the other by Ahmad Raza Kasuri himself, pertaining to the murderous attacks on the latter. The Speaker maintained that "inside the Chamber, rather in the Assembly premises it is the duty of the Speaker to provide protection to the members of the National Assembly, but outside the Assembly premises the Speaker has no authority. Responsibility to provide protection outside the Assembly premises vests with the Provincial Government." (A copy of the relevant newspaper report is Appendix-2.) The Speaker's ruling on the two motions appears in the official reports of the debates of the National Assembly of Pakistan, on pages 135 to 137.

After the submission of the Tribunal's report, no further action was taken in the matter and the case was put in the cold storage, where it stayed for nearly three years.

Immediately after the fall of the Bhutto regime, the case was revived by the widowed mother of Ahmad Raza Kasuri (Begum Muhammad Ahmad Khan). With reference to the first information report lodged on November 11, 1974, she submitted a petition to the Chief Martial Law Administrator (registered under No.M-1/77) "praying for the immediate and urgent issuance of orders to the Punjab Government and its officials to reopen and investigate the case of murder in which Mr. Z.A. Bhutto, the former Prime Minister, was the main accused." This clearly indicates that the present Martial Law Administration had nothing whatever to do with the commencement of the proceedings that culminated in Bhutto's trial.

It is noteworthy that inspite of the fact that murder was one of the offences covered by the Martial Law regulations promulgated immediately after the fall of Bhutto, and regardless of appeals from certain quarters that Bhutto should be tried by a Court Martial, the Martial Law Administration refused to interfere with the normal judicial processes under the ordinary law of the land.

Within a few weeks after the advent of the new administration, on a complaint by Begum Muhammad Ahmad Khan under the normal criminal law, the case was taken up in the court of the Additional Sessions Judge, Lahore. In her statement in that Court, Begum Muhammad Ahmad Khan, apart from restating the facts of the incident, asserted that "the family had no enemy in the country besides Zulfikar Ali Bhutto." Later, on a regular application under the Code of Criminal Procedure, the case was transferred to the Lahore High Court. According to the Code, murder cases are first tried in a Court of Sessions, but according to Section 526 of the Code, a High Court is competent to transfer any criminal case to own file "whenever it appears— that a fair and impartial trial or inquiry cannot be had" in any subordinate criminal court, or "that some question of law of unusual difficulty is likely to arise, or that an order under this Section will tend to the general convenience of the parties or witnesses, *or that such an order is expedient for the ends of justice*."

The High Courts in Pakistan have always exercised this power to prevent the trial of important cases being influenced by the administration or other strong parties at the lower levels of the judicial process. The transfer of a case from a lower to a higher court always tends to help the weaker of the two parties by ensuring to it a trial totally free of Executive or other interference.

In the present case, the trial was conducted by a full bench of five judges (only two are required under the law), presided over by the Chief Justice but not including the Judge who had ordered the transfer.

In the course of the trial, the principal accused, Zulfikar Ali Bhutto, alleged bias against the Acting Chief Justice. The relevant petition was heard by the Court and dismissed *in limine*. Bhutto then filed a petition in the Supreme Court for special leave to appeal against this order of the High Court, but later withdrew it.

In contrast to Bhutto's trial under the normal laws of evidence and procedure, it may be recalled that there are many instances in Pakistan's judicial history of these laws having been amended for the trial of particular cases. For instance, as far back as 1951, when Pakistan was being ruled under a normal system of parliamentary government, the laws of evidence as well as procedure were amended to deny the accused persons in the Rawalpindi Conspiracy Case of some rights essential for effective defence. By an Act of the Constituent Assembly a Special Tribunal with the powers of a High Court was set up to try the case, commitment proceedings were dispensed with, bail was prohibited, and, above all, statements recorded in the course of Police investigations were made admissible in evidence. And although the crime with which the accused had been charged could have been punished with death, they had no right of appeal even before the Federal Court, which was then the final court of appeal in Pakistan.

During the Yahya regime, when Shaikh Mujibur Rahman, accused of political crimes, was tried by a military court in strict secrecy, Mr. Bhutto did not demur at it. Indeed, after his own assumption of power, he recalled that trial with apparent approval:

"Come on now!" he told the noted journalist, Oriana Fallaci, in the course of a lengthy interview, "He was in a cell, he was in an apartment that's put at the disposal of important political detainees ...... At his trial he defended himself, and how! He asked for the services of two eminent lawyers: Kamal Hussain and A.K. Brohi,......to have Brohi means to have the best of the best ...... Brohi ...... presented himself at the trial with four assistants, four other lawyers. Paid for by the State, naturally. It cost a fortune."

As to Mr. Bhutto's own regime, the deviations from the normal law involved in the creation of Special Courts and the continued recourse to emergency laws in normal times have already been pointed out. Two other instances may be added: In February 1976, shortly before the commencement of the trial of Khan Abdul Wali Khan and other NAP leaders, the Legal Practitioners and Bar Councils Act was amended by Ordinance (later enacted by Parliament) to debar any counsel who had not resided in Pakistan for at least one year from being admitted as an advocate in a Pakistani

court. This was obviously designed to prevent the accused in that case from obtaining the services of a foreign counsel.

A little later, all remissions of sentences normally admissible to convicts under the Army Act as well as under the ordinary criminal law were abolished by an Act of Parliament. This was presumably done to deprive of their due remission certain officers of the Armed Forces who had earlier been convicted of an attempt to overthrow the Bhutto regime. This Act was repealed by the Martial Law Administration in January this year.

A few facts about the conduct of Zulfikar Ali Bhutto in the course of his trial are significant. He took full advantage of an accused person's crucial right of cross examination to subject the principal prosecution witnesses to prolonged and largely irrelevant and dilatory cross examination, and withdrew from the proceedings when only formal witnesses remained for cross examination. He refused to enter upon his defence and tried to turn the Court into a political forum, whereupon the bench ordered the rest of the proceedings to be held *in camera*. This was done in exercise of the Court's power under the normal law of procedure in Pakistan. (The portions of the High Court's judgement dealing with this aspect of the case are reproduced in Appendix-7.)

Incidentally, at the end of every day during the *in-camera* proceedings, the Court used to release a summary of the proceedings for publication in the Press.

In any event, all the accused, including Zulfikar Ali Bhutto, have availed themselves of the right of appeal; in the Supreme Court they will have full opportunity to attack the judgement of the High Court and argue against any alleged departure on its part from the laws or procedures guaranteeing a fair trial.

The superior courts in Pakistan have a long and strong tradition of independence, and her judicial annals are replete with cases in which the courts have stood up to the strongest Executives, including Martial Law administrations.

In 1954, the Sind Chief Court declared unlawful the Governor-General's order dissolving the first Constituent Assembly, and although the Supreme Court reversed the decision in appeal, it compelled the Government to give up its plan for a nominated

Constitution convention and to set up a new elected Constituent Assembly. During the Ayub regime, the Lahore High Court convicted the then Law Secretary, Sir Edward Snelson, on a charge of contempt. Also, during those years it convicted a Joint Secretary to the Central Government, holding miltary rank, of enticement and adultery. Both these officers consequently lost their jobs. And during Mr. Bhutto's own regime, the Supreme Court declared unlawful the Martial Law under which he had ruled the country for the first four months.

Ten years ago, when Bhutto and some of his political associates were being persecuted under the Ayub regime, it was the High Court of West Pakistan that came to their rescue. And one senior judge on the bench that helped them secure justice against arbitrary authority was none other than Mr. Justice Mushtaq Hussain (the judge who presided over the full bench that has now convicted Bhutto of conspiracy to murder). In December 1968, that division bench, which was hearing writ petitions against the detention of Bhutto and several others, ordered the release of Ghulam Mustafa Khar; and the Government, sensing the trend of the Court, withdrew the case against Bhutto while it was still under hearing. Closing the case, the bench observed that the petition had been "disposed of as having borne fruit".

Normally, there is no comment in the press or by the public upon the judgements of the superior courts until the end of the judicial process. So it was also in the present case until it became clear that foreign reactions that the judicial process in Pakistan and the facts of this particular trial had not been properly appreciated in certain circles abroad. Apart from the widow of the victim, prominent political leaders, retired judges of superior courts, representatives of the Bar and large sections of the Press have urged that there should be no Executive interference with the judicial process and the law must be allowed to take its course in the case of Bhutto as well in relation to the other accused who have all been sentenced to death. Statements to that effect have come from Maulana Syed Abul Aala Maudoodi, founder of the Jamaat-ı-Islami, Maulana Mufti Mahmud, President of the Pakistan National Alliance, Begum Nasim Wali Khan, Vice President of the National Democratic Party, Maulana Tufail Mohammad, Ameer of the Jamaat-i-Islami; from Mr. B.Z. Kaikaus, a retired Judge of the Supreme Court, and Chaudhry Nazir Ahmad Khan, retired Attorney-General of Pakistan, and from various Bar Associations including those representing the High Court Bars at Lahore and Karachi.

Most of these statements have, apart from generally demanding adherence to the rule of law, stressed the Islamic precept of equality before the law, which is more severe and uncompromising than any comparable concept in modern constitutional jurisprudence. Mr. B. Z. Kaikaus, for instance, has said that, if the recommendations for commuting Bhutto's punishment were accepted, it would grant liberty to all the Prime Ministers to have their opponents killed without any apprehension of facing the death penalty. In Islam, he emphasised, there was no distinction between man and man and nothing could be more un-Islamic than that a person accused of a crime should get the benefit of his wordly status.

In other comments, it has been pointed out that the Holy Prophet once declared in reply to a plea for clemency on behalf of a convicted thief, that he would not spare even the hand of his dear daughter, Fatima, if she were found guilty of stealing.

He would surely have done so, for the Quranic precept on the subject is clear and mandatory:

"O you who believe, be maintainers of justice, bearers of witness for Allah, even though it be against your own selves or (your) parents or near relatives—whether he be rich or poor, Allah has a better right over them both."

The foreign powers' appeals for the commutation of the death sentence passed on Zulfikar Ali Bhutto have provoked strong reactions within Pakistan. The silent, the inarticulate majority, which has been through the six-year long nightmare of the Bhutto regime, demands that the law must be allowed to take its own course, and justice be done; the few odd voices calling for a deviation from that course belong to a small group of his partisans and other beneficiaries of his irresponsible rule.

The foreign States that have appealed for clemency have no doubt shown their compassion for the former Prime Minister of Pakistan; but they must concede that they do not know enough of the ethos of the people of Pakistan, who have a deep respect for the institutions applying the laws of the State and for the sanctity of the legal process.

As has been asserted earlier, there is a tradition of reverence among the people

of this country for judicial findings, and no government can set at nought their determinations without coming into violent conflict with the people. Pakistan's relations with foreign powers cannot provide any justification for interference by them with the sanctity of the legal process within Pakistan. Indeed, from the point of view of international law, its theory and practice, any attempt at such interference is unwarranted, if only because international law is not supra-national law: it is not a law above the laws of foreign States, but a law between sovereign States.

Were the foreign powers properly advised, they would refrain from issuing appeals of the kind that they have made, at least during the pendency of the appeal proceedings; because an appeal is a continuation of the original trial, and prejudicial comment even in relation to a cause from which appeal is contemplated but not filed amounts to contempt of court.

Most of the Islamic countries have appealed to the Government of Pakistan for clemency for Bhutto without realising that Pakistan has a highily sophisticated legal procedure for determining the guilt or innocence of an accused person. Although one respects what the friends of one's country have to say, one does so with the reservation that they are not fully cognizant of the crime committed by the offender, much less of the reactions that such appeals are bound to provoke among the people of this country.

DAWN

Karachi, November 12, 1974

RAZA QASURI'S CAR FIRED AT: FATHER DIES

JUDICIAL INQUIRY ORDERED

(From our Staff Correspondent)

LAHORE, Nov 11: Nawabzada Mohammad Ahmed Khan, father of Mr. Ahmed Raza Khan Qasuri, MNA and Information Secretary of Tehrike Istiqlal, was shot at by some unknown persons and died in the early hours of the morning at the United Christian Hospital. Mr. Raza Qasuri had a miraculous escape.

Mr. Mohammad Ahmed Khan, accompanied by his wife and sister-in-law, was returning to his house in Model Town at about 12.30 a.m. after attending the marriage of a relative. He was occupying the front seat and Mr. Raza Qasuri was driving the car. They had hardly covered a hundred yards when bullets came from different sides and three of them hit Mr. Khan in the head. Some bullets got stuck into the seat occupied by Mr. Raza Qasuri but he was not hurt. Mr. Raza Qasuri rushed the car to the United Christian Hospital where his father breathed his last at about 3 a.m.

His Janaza prayers will be offered at Golbagh, here, and later at Kasur where he will be laid to rest in the premises of Hazrat Bulleh Shah's grave.

The Tehrik Chief, Air Marshal (retired) Asghar Khan, who rushed to

Lahore from Abbottabad after hearing the news, told a Press conference at the residence of Mian Mahmud Ali Kasuri, that the assassins had tried to kill Mr. Raza Qasuri, on whose life three attempts had already been made. He regretted that so far about 24 political workers and leaders had been killed, but all murderers remained untraced.

Mr. Mahmud Ali Kasuri levelled charges against the Government, Maintaining that Dr. Nazir Ahmed, MNA, Khan Abdus Samad Khan Achakzai, Maulana Shamsuddin, Khawaja Mohammad Rafique and others had already fallen victim to bullets, he demanded that there should be an end to "political murders".

He said he had been informed by some persons that about 20 to 25 shells of G-3 automatic rifle were found near the place where last night's murderous attack had taken place.

RAMAY'S DIRECTIVE

APP/PPI add: The Punjab Chief Minister, Mr. Mohammad Haneef Ramay, meanwhile, has directed that no effort should be spared to trace those responsible for the firing incident.

Talking to newsmen on his return from Multan this afternoon, Mr. Ramay said that as the chief executive of the Province, the law and order was his responsibility, and he was sorry that a citizen was a victim of such a heinous crime.

"We are already on the track. Empty cartridges of 7mm have been recovered from the spot," he added.

As regards Mr. Raza Qasuri going about and trying to attach motives to the Government and trying to make political capital out of this incident, the Chief Minister said the Government could have no intention of harming "this politically impotent persons".

The Government, he said, had no ill will against him. In fact Mr. Raza Qasuri and other members of his family had incurred enmity of many a person, he said, and alleged that instead of serving the people in his constituency they had harassed the people.

He said there were also interparty jealousies and rivalries in Tehrike Istiqlal, to which the MNA belongs, and there was a scuffle in a party meeting recently in Mardan in which Mr. Raza Qasuri was also involved.

ENQUIRY

The Chief Minister, in consultation with the Chief Justice of Lahore High Court, appointed Mr. Justice Shafiur Rahman to hold an enquiry into the death of Nawab Mohammad Ahmed Khan.

A Press note issued today said the High Court to hold the inquiry "has been taken in the best interests of justice."

It said that some interested persons had started ascribing political motives to the

murder and were spreading wild allegations about the hands responsible for committing it: "As the Government has a perfectly clean conscience in this behalf, and feels that the faith of the people in the High Court will preclude any possibility of doubt about the manner in which investigation of the crime is proceeding, the Chief Minister has decided that a High Court judge should preside over the enquiry from the very outset.

"Mr Justice Shafiur Rehman is expected to take over the enquiry immediately."

CONDEMNATIONS

The Federal Minister for Law and Parliamentary Affairs, Malik Meraj Khalid, in a statement strongly condemned the dastardly attack in which the father of Mr. Raza Qasuri was murdered.

Jamaat-i-Islami leaders Mian Tufail Mohammad, Maulana Jan Mohammad Abbasi and Prof Abdul Ghafoor, MNA, condemning the incident expressed gratitude to Almighty Allah that Mr. Raza Qasuri had been saved.

They alleged that "in fact the unknown assailants wanted to make Mr. Qasuri the target of their bullets."

They expressed their sympathies with Mr. Raza Qasuri and other members of his family.

Malik Mohammad Aslam Hayat Khan, Chairman, Executive Committee of the Pakistan Bar Council, in a Press statement, said: "It is commonly viewed that the motive of this attack was political rivalry." —PPI/APP.

Our Staff Reporter adds:

An emergency meeting of the Karachi Tehrike Istiqlal condemned the "attempt to kill Mr. Ahmed Raza Qasuri and his family members in Lahore, resulting in the death of Mr. Ahmed Raza's father."

The meeting was addressed by Dr. I.H. Qureshi, Mr. M.A. Pesh Imam, Mr. Abdul Bari Khan, and other party leaders, according to a party Press release.

A resolution was also passed expressing deep and heartfelt condolences for the loss of a precious life

Addressing the meeting, Dr. I.H. Qureshi recalled that attempts on the life of Mr. Ahmed Raza Qasuri had been made in the past, and felt that the latest was politically motivated.

Appendix—2

THE NEW TIMES

December 4, 1974

MOTION ON REZA KASURI RULED OUT BY SPEAKER

ISLAMABAD, Dec. 3 (PPI)—The Speaker of the National Assembly today ruled out of order a privilege motion which pertained to the murderous attack on Mr. Ahmad Reza Khan Kasuri.

The Speaker gave his ruling on a privilege motion made by Ch. Zahur Illahi. In his ruling the Speaker maintained that inside the chamber rather in the Assembly premises it is the duty of the Speaker to provide protection to the members of the National Assembly, but outside the Assembly premises the Speaker has no authority. He said responsibility to provide protection outside the Assembly premises rests with the provincial government. Any honourable member can ask or request for such protection wherever he apprehends any danger.

The Speaker in his ruling said: "I am of the opinion that the privilege motion contains two parts. The first which relates to the actual occurrence and the second which deals with the protection of the members of the Assembly. As far as the first part is concerned I think the Assembly is not competent to enter into the enquiry whether conducted by the judge of the High Court or investigation by the police. I am not clear as to whether the Speaker of the National Assembly can enquire from the provincial government about the progress or the result of an investigation in a criminal

case. If it is brought to my notice that Assembly can, then certainly I will enquire from the provincial government about the progress. As far as the second point is concerned it is quite clear to me that the members of the National Assembly are entitled to protection regarding themselves, their families and their property.

Inside the chamber rather in the Assembly premises it is the duty of the Speaker to provide protection to the members of the National Assembly but outside the Assembly premises the Speaker has no authority. Responsibility to provide protection outside the Assembly premises vests with the provincial government. Any honourable member can ask or request for such protection whenever he apprehends any danger. In that case the usual and the normal procedure laid down will be followed. It is the duty of the House to see that the members of the House irrespective to which side they belong are not molested or obstructed. The members have a right to discharge their duties unobstructed subject to the restrictions imposed on them by the Constitution or law and whatever protection is available under Constitution and the law will be made available to the honourable members. With these remarks I am of the opinion that the privilege motion is not in order and it is ruled out.

2 MOTIONS KEPT PENDING

The Speaker today kept pending the two privilege motions moved each by Prof. Ghafoor Ahmad and Ch. Zahur Illahi saying that the movers must satisfy him as to how there has been the breach of privilege.

The first motion was moved by Prof. Ghafoor Ahmad, who had stated that the Government had launched a one sided attack against him and Opposition through radio and TV to malign his position and the role of the Opposition. He said his request to the former Information Minister and the PBC and TV chiefs to allow him to explain his position have not been replied so far.

The Minister of State for Law and Parliamentary Affairs, Malik Mohammad Akhtar opposed the motion on the grounds that no breach of privilege had taken place and secondly he said the matter was not specific.

The Speaker maintained that the Assembly could only intervene when any of the statements in the House have been distorted or misreported by radio and TV. Later, the Chair asked the mover to satisfy him that privilege had been breached till then he kept the motion pending.

Another privilege motion moved by Ch. Zahur Illahi also pertained to radio and TV. He said Radio Pakistan while broadcasting the Assembly proceedings did not mention about the contents of his privilege motion which pertained to the reported statement of Maulana Abdul Hakeem, MNA, against him when he was out of country.

The Chair again maintained that the member must satisfy him that privilege had been breached. He kept the motion pending.

Later the Speaker ruled out of order an adjournment motion moved by Mr. Ahmad Reza Khan Kasuri. Through his motion he wanted to discuss the reported statements of the Prime Minister and the Punjab Chief Minister regarding the extent of damage to the Tarbela Dam.

He said that the Prime Minister in his statement had said that the extent of damage to the dam was Rs. 300 crore (Rs. 3,000 million) while the Chief Minister Punjab had estimated the damage to Rs. 600 crore. These statements, he said, had caused great concern in the public.

The Minister for Fuel, Power and Natural Resources said that the actual damage to the Tarbela Dam had not yet been assessed. He said the report about the extent of damage had not yet come. The Chair ruled the motion out of order maintaining that the motion was based on Press statements.

The Chair also ruled out of order another adjournment motion moved by Prof. Ghafoor Ahmad. The motion concerned the non-assignment of the Ministry of Information portfolio in the Federal Cabinet. The Speaker informed the House that Malik Akhtar has been replying questions about the Information Ministry in the House as such he said the factor of accountability was there.

The third adjournment motion tabled by Prof. Ghafoor Ahmad was not pressed by him on the categorical statement made by the Finance Minister that the Federal Government had already released a sum of Rs. 8 crore for the construction of a scheme for the water supply in Karachi.

THE PAKISTAN TIMES

September 2, 1977

MAIRAJ DEMANDS BHUTTO'S TRIAL

KARACHI, Sept.1: Mr. Mairaj Mohammad Khan, former Minister of State in former Prime Minister Bhutto's Government, today supported the demand for the arrest and open trial of Mr. Zulfikar Ali Bhutto.

But he expressed the view that Mr. Bhutto should be arrested after the elections and not before the elections.

Talking to newsmen at the High Court building where he was brought in connection with the hearing of different cases against him, Mr. Mairaj said Mr. Bhutto should be arrested for his crimes after the elections so that he may not have the reason to say that he was prevented from participating in the elections.

"I want nothing from him but his political death," he remarked.

To a question Mr. Mairaj said the demand for the arrest of Mr. Bhutto was not the result of the reaction to the big receptions accorded to him in Punjab. "His receptions in Punjab were no cause for any bewilderment. The whole nation has stood against him and the demand for his arrest was for his crimes which he committed against the innocent people of Pakistan."

He said he should be tried for the murders of the people, workers, social workers and his other opponents. A large number of such murders are still unreported, he added.

He said after his release he will raise his voice against what he described as "gruesome excesses" against the masses.

When asked whether after his release he would sue the former Prime Minister in the court of law against the excesses he (Mr. Bhutto) did to him, Mr. Mairaj replied that he did not intend to take reprisal action against Mr. Bhutto.

"I am against personal vengeance with Mr. Bhutto. Although what he did to me but I would not react the way he acted. I am not a person having small heart," Mr. Mairaj said.

When asked whether he intended to take part in politics after his release from present confinement, Mr. Mairaj said it was what for which he has given so much sacrifices.

He said he would enter into politics not for his own sake but for the sake of the integrity of the country and unity of the masses so that the country which was achieved after colossal sacrifices could develop on progressive lines.

He said: "I want to see the downtrodden people flourish. They must get their rights which were denied to them by a tyrant government."

He said he would struggle and fight for the emancipation of the country from the hegemony of big imperialistic countries.

He said the people were subjected to the worst type of exploitation and its repercussions have to be remedied. He called upon the people to be united against all forces of exploitation so as to achieve the basic objective for which the country was achieved.—APP

DAWN

January 8, 1978

WALI ADDRESSES LAHORE RECEPTION

TRIAL OF BHUTTO BY SPECIAL COURT URGED

LAHORE, Jan 7: Khan Abdul Wali Khan today called for setting up a special court to try former Premier Zulfikar Ali Bhutto, for "his political as well as criminal offences so as to avoid the formalities of the civil courts."

Speaking at a reception hosted in his honour here this afternoon, he said if a special court could try him (Wali Khan) for a political case, there was no reason why Mr. Bhutto should not be tried by a special court for what he called the "most heinous crimes" he had committed during his rule.

Mr. Abdul Wali Khan, however, clarified that he was not making this demand out of vendetta, but it was founded on the principle of Islamic justice.

The reception was also attended by the National Democratic Party chief, Sardar Sherbaz Khan Mazari, Begum Nasim Wali Khan, Mr. Sikander Khan Khalil and other NDP leaders.

Mr. Abdul Wali Khan said that today Mr. Bhutto and his family members were

talking of the rule of law and of democracy. It was not long ago, he said, when Mr. Bhutto opted to be the first civilian Chief Martial Law Administrator in history and instituted military courts to punish people. Mr Bhutto, he said, had absolutely no right to protest against military rule and laws or courts in the present changed circumstances, he added.

UNHEEDED WARNING

Mr. Abdul Wali Khan said that about four years ago, when the People's Party Government started enacting oppressive laws, he had raised his voice and warned the PPP parliamentarians that a time would come when these oppressive laws would be used against them. However, he said, no one had paid any heed to his words at that time, Propriety, therefore, demanded that the PPP leaders should be dealt with under those very laws with which they had dealt the entire nation during the last six years.

He said that so far Mr. Bhutto was being tried for one murder. He asserted that Mr. Bhutto was the murderer of the entire nation; the kissans, the labourers, the students. Mr. Bhutto was the murderer of all values and was responsible for banishing the rule of law, decency and morality from this land. Above all, he said, Mr. Bhutto was responsible for the break-up of the country—the Pakistan of the Quaid-i-Azam—and it was time that he be tried for the same. He emphatically said that it was Mr. Bhutto who mainly caused the secession of East Pakistan, adding that this he could say because he had been frequently meeting Bhutto, Mujib and Yahya Khan and had been in the know of the things.

Khan Abdul Wali Khan called upon the Martial Law regime to take the PPP leaders, especially the Ministers, to task for squandering the national wealth and pushing the country's economy to the brink of disaster. He said that the PPP Ministers had deposited millions of rupees in the banks abroad and demanded that none of the Ministers or leaders should be allowed to leave the country unless every penny of their ill-gotten amount was brought back. He said that if they refused to bring back this money, which was national wealth, they should be hanged upside down.

LAVISH EXPENDITURE

Mr. Abdul Wali Khan also urged the present Government to take the nation into confidence about the way the PPP leaders had spent the national wealth.

Giving some instances of the wreckless expenditure incurred by Mr. Bhutto on his personal comforts, Khan Abdul Wali Khan said that this "leader of the poor" had purchased a 'Falcon' for his private use at the cost of fifty million rupees and its bath-

room had gold plated rings. Further, he said, that the annual expenditure of the bathroom of the Prime Minister's House had been about 25 million rupees. His Ministers had also been used to similar luxurious living and it was this lavish spending that had made the country bankrupt, he added.

Mr. Abdul Wali Khan said that he had already talked to the Chief Martial Law Administrator that after the court trial of Mr. Bhutto was over, he should be handed over to the nation so that it could avenge itself for the atrocities he had perpetrated on the people. This would be strictly in line with the Islamic principle of "Qisas", he observed.

Khan Abdul Wali said that the crimes committed by Mr. Bhutto were unlimited but the nation could not forgive him for breaking up this country. He remarked: "If a dog dies, its master would probe into its death. We have lost the Pakistan of the Quaid-i-Azam, should there be no probe into this tragedy?" he asked.

BRINK OF DISASTER

Mr. Abdul Wali Khan said that Pakistan at present was standing at the brink of an economic disaster, and it was the duty of the interim Government to let the people know about the actual position which was the result of ruinous policies adopted by the PPP Government.

He said it was the duty of the PNA workers to spread out into the streets and tell the actual facts to those who still believed in Bhuttoism.

He said they could politically obliterate the temptations of "Bhuttoism" in Pakistan if they chose to do so.

Regarding the One Unit, he said that the issue of provincial autonomy and One Unit had very nicely been settled in the 1973 Constitution. The issue related only to the implementation of 1973 constitution vis-a-vis provincial autonomy.

Revival of these issues could harm the integrity of the country, he cautioned.

Mr. Wali Khan said that his heart beats were with the people of the Punjab and he was arrested in Okara to keep him away from the people of the Punjab.

He said he would very shortly start his contact-the-people campaign right from Okara.

The verdict of the people of the Punjab, the NDP leader said, had played a vital role in the political perspective of Pakistan and now as an elder brother it was its duty to play its proper role.

He said no such movement in history of the world had succeeded so effectively as did the movement against Bhutto.

HIS STAND

Khan Abdul Wali Khan said that he and his colleagues had always stood against despotism and had faced every dictator but they had never compromised on principles nor had ever coveted Ministries. He said he had even rejected the offer of Presidentship by Mr. Bhutto and Mr. Bhutto had thrown him behind the bars simply because he wanted to acquaint the people of the Punjab with Mr. Bhutto's true character. However, he said, that time had now changed and he had come out of the jail and his position had been made clear whereas Mr. Bhutto was behind the bar instead.

He said that power always changed hands, but it was tragic that Pakistan was broken up by the lust for power of one man. He deplored that some other political leaders had not learnt any lesson from history and were out to undermine national unity to grab power.

The problems facing the country at present, he said, was not that of power but it was of the integrity and unity of the country. The point which should be given consideration was that we had tried the presidential and parliamentary forms of democracy besides having military rule three times and the hold of a strong bureaucracy, but had failed to run the country smoothly. The reasons of this failure must be found out, he said.

Mr. Abdul Wali Khan paid rich tributes to the people of the Punjab for launching the movement against the Bhutto regime and said it was due to the movement that he and his colleagues were out of the jail today.

Sardar Sherbaz Mazari and Haji Ghulam Ahmed Bilore also addressed the reception briefly.

Meanwhile, Sahibzada Abdul Bari Jan, General Secretary of the Jamiatul Ulema-i-Islam, NWFP, has supported the proposal made by Khan Abdul Wali Khan regarding holding of a round-table conference of the politicians to resolve the present political crisis.

In a Press statement today he called upon all the political parties to realise the need and importance of such conference and come forward with positive and effective measures to ensure an early holding of the conference.

He also demanded publication of Hamoodur Rehman Commission report at the earliest.—APP/PPI.

DAWN

Karachi, March 22, 1978

LHC JUDGMENT FAIR: BAR BODY CRITICISES FOREIGN INTERFERENCE

LAHORE, March 21: The Lahore High Court Bar Association has said that the trial of Mr. Zulfikar Ali Bhutto and four others before a Full Bench was fair, impartial and in accordance with the ordinary law of the land and the statements of certain foreign political personalities about it were based on lack of information.

The general house of the Bar in a unanimously adopted resolution at its meeting held today, observed that the accused were given every facility in the course of trial and the statements appearing in the foreign Press were an attempt by certain quarters to influence and subvert the course of justice in this country.

The legal fraternity of Pakistan was committed to the rule of law and it strongly resented the interference in the internal affairs of Pakistan which was contrary to all notions of international relations, it said.

It urged the Pakistan Government to take appropriate measures against such interference.

THE SUN

March 26, 1978

APPEAL FROM A WIDOW

RAWALPINDI, March 25: Begum late Nawab Mohammad Ahmed Khan today issued a 'widow's appeal' captioned: "Justice that is 'mercy, not mercy' that is unjust".

The signed appeal, released here, said:

"It has been a long wait since that fateful night four years ago when held the blood-spattered head of a murdered husband in my lap. All these years I have borne my pain in silence, waiting for that justice that God has not merely ordained but promised. If I break that silence now, it is not to lament in public. Inside me, in my heart, I have wept enough, so that now my eyes are dry.

"I appeal because I must—as unemotionally as I can—on an issue that no longer concerns just me alone, but every citizen of this land, even all mankind.

"Tyranny and persecution, are worse than slaughter. What, then, is worse than tyranny and persecution leading to slaughter and continuing, till even God runs out of patience and retribution cannot await the hereafter.

"Human life is holy—so holy that the last of the messengers of God considered it to be holier than the house of God considered it to be of God on earth. Whosoever destroys a human life, by his very act condemns himself to destruction. There is no other way by which equilibrium can be restored. Who would condone the wilful snuffing out of human life?

"I appeal not merely as a widow seeking justice, but also as a citizen of this land and a member of the human race—painfully aware of the wider implications of a tragedy that has spilled over the borders of personal bereavement. This was of ordinary number by an ordinary murderer. It was a cool, calculated act tenaciously pursued with all the authority and resources at the command of a man who was the chief executive of this land in his hands as a trust from God, lay our life, honour, well-being. And he deliberately, chose to brutally trample down this trust. This is an extraordinary case, the case of 'protector' having committed murder.

"And are there people interceding on his behalf, pleading for a 'mercy' that would be a miscarraige of justice and, therefore, no longer mercy?Would that not be an open invitation to murderers to make further mischief in the land? Have we forgotten what the Prophet of Islam once said to Usama:

> "Are you interceding regarding one of the punishments prescribed by God? What destroyed your predecessors was just that when a person of rank among them committed a theft, they left him alone: but when a weak one of their number committed a theft, they inflicted the prescribed punishment on him. I swear by God that if Fatima, daughter of Muhammad, should steal I would have her hand cut off."

"Shall we not ponder over this? Is the man who had my husband murdered more exalted or dearer to us than the Prophet's own daughter? And we need to remind ourselves that the Prophet was talking only of 'theft', this is a case of 'murder'.

"What consolation can it be to me that my son lives, when his father has been killed? What woman can choose between son and husband? I only know that a life has been wantonly snuffed out and it cries out for retribution.

"Murder is no ordinary crime; it is a cardinal sin. It pushes him who commits it outside the pale of Islam. Shall we condone him whom God and Prophet excommunicate?

"I would have preferred to keep my silence, for justice has snot yet run its full course in this land that would be 'God's shadow on earth'. I have been compelled to

intrude because of the intrusion of others. May God forgive the wail of the widow in me and take cognizance of the truth that I have spoken; and if men can hear this cry before it reaches God and do what they should, many more widows may be spared the pain that I must now silently endure.

"I have lost my husband and my sons have lost their father but for God's sake destroy the evil so that the law abiding citizens could live in peace."—APP.

EXCERPTS FROM THE JUDGEMENT OF THE LAHORE HIGH COURT IN MUHAMMAD AHMAD KHAN MURDER CASE

291. Before the start of trial the principal accused had challenged the constitution of the Court on the ground inter alia that by his appointment as Chief Election Commissioner the Acting Chief Justice had ceased to hold the later office. He had also raised some allegations of bias against the Acting Chief Justice. The Supreme Court directed him to raise all these before this Court. In view of this direction the principal accused submitted two petitions Criminal Misc. No. 932/M and 933/M of 1977; one challenging the constitution of the High Court and the other showing apprehension that he would not get a fair trial in view of the allegations of bias against the Acting Chief Justice (as His Lordship the Chief Justice then was). These petitions were dismissed in limine by this Bench on 9-10-1977. Besides strongly refuting the allegations of bias it was pointed out in the order that the matter was being heared not by the Acting Chief Justice alone but by a large Bench of Five Judges each of whom had to act independently and was under oath to act justly without fear or favour. The accused submitted two petitions for Special Leave to Appeal against the order before the Supreme Court. He however withdrew the petition filed by him to challenge the order passed on the petition raising question of bias against the Chief Justice. Thereafter he submitted several incompetent petitions and informations repeating the same allegations, despite the fact that the matter had attained finality. In some petitions there was a prayer for transfer of the case to some other bench or to the Sessions Court. All these petitions were dismissed. It was reported that the apprehension of the principal accused was altogether unreasonable.

292. In his last petition for transfer which was submitted on 18-1-1978 the accused repeated all the earlier allegations of bias and supplemented them with a number of scandalous, scurrilous and baseless allegations. He also took such objections to the Court's rulings or procedure adopted by it, which can be taken only before a Court of Appeal. Since the practice of this Court is to hear motion cases in Chambers and the Bench trying the case was of the view that the petition was submitted only to scandalize the Court and to give publicity to these baseless allegations with a view to shake public confidence in the Court. It was considered proper to hear this transfer case in motion in Chambers. The accused was called to the Chambers alone to argue the matter since he had submitted the petition in person and not through counsel. On entering the Chamber the principal accused showed surprise that the matter was not being heard in Court and requested that it should be heard there. This made it

obvious that he was more interested in publicising his baseless and scandalous allegations in the petition and his arguments on it. He was informed that motion cases are generally heard by the Court in Chambers. The principal accused then submitted that his counsel would argue the case. He named Mr. D.M. Awan and Mr. Ehsan Qadir as his counsel. Both the counsel were, therefore, called.

293. Mr. D. M. Awan addressed arguments on the questions of maintainability of the petition. He did not argue the points which had already been decided. He also did not address on matters on which rulings had been given after giving full hearing and which could only be urged in appeal. The other new points were sheer calumnies which he made no effort to justify. During the course of hearing the principal accused tried to interrupt and interfere in the proceedings, but he was informed that he would be given an opportunity to supplement the arguments of his counsel on merits. After finishing his arguments Mr. D.M. Awan requested to be allowed to withdraw from the case. This request was not granted since there appeared to be no ground for allowing him to withdraw from the prosecution of the defence. He then prayed that the accused might also be given a chance to make some submissions on merits. The accused was allowed to argue on merits although he had no right to address the Court in person when he was represented and his counsel had already been given full hearing. Instead of making any contribution towards the merits of his petition he started a political speech which was absolutely irrelevant. He was warned several times and asked to be relevant in his submissions but he finished his submission by saying that if he was not allowed to say what he wanted to say he would not address the Court any further. The petition for transfer was then dismissed.

294. When the Bench assembled in the Court room for recording the evidence of Ghulam Hussain, approver (P.W. 31) who had already been cross-examined at length by Mr. Ehsan Qadir on behalf of the principal accused, the learned counsel stated that he had no more question to ask since his client had instructed him to do so.

295. Later Mr. D. M. Awan stated at the Bar that his client had withdrawn the powers of attorney of all his counsel. He also placed on record a writting by the principal accused that he did not want to defend in view of what had happened that day. The reference was obviously to the hearing of his petition for transfer in Chamber, its dismissal and the fact that the said accused had to be ordered to take a seat since the Court was not inclined to hear irrelevant arguments or a political speech in a trial which is to be conducted under the provisions of the Evidence Act.

296. Mr. Ehsan Qadir and Mr. D. M. Awan were directed to conduct the defence at State expenses, Mr. Ehsan Qadir appeared before the Bench after the Court rose for the day and requested to be relieved since he had other professional business

to attend at Sargodha where he usually practices. Next day Mr. D. M. Awan also requested to be relieved on the ground that the above mentioned accused refused to give him any instructions.

297. The High Court Rules make provisions for arranging a counsel in a Sessions Court for an unrepresented person accused of an offence punishable with capital sentence in case he is indigent. Where the case is tried by the High Court on its original side Rule 2 Chapter 4-E of Volume V of the High Court Rules and Orders vests the Court with a discretion to arrange representation even for the defence of an accused who is not a pauper and can afford to engage a counsel. It was in exercise of this discretion in favour of the accused that the Court had asked the counsel who had defended him so long, to continue defending him at State expense. Since the accused appeared bent upon thwarting this attempt to arrange for his defence at State expense and refused to co-operate with the counsel the Court relieved Mr. D. M. Awan and directed the accused to conduct the case himself.

298. This was the only course open to the Court since it has no authority under the above Rule to force upon the accused the services of a counsel if he is unwilling to accept them. As observed by a Division Bench of the Lahore High Court in PLD 1954 Lahore 547 (Iftikhar-ud-Din v. State) if the accused contumaciously refuses to accept the offer of legal advice made to him and is not willing to accept the representation arranged by the Court he must be left to conduct his case himself.

299. The accused refused to cross examine other witnesses who were formal. Mr. Qurban Sadiq Ikram, learned counsel for Mian Muhammad Abbas, accused, however, cross-examined them in detail on all relevant points. He brought on record and proved through the prosecution witness most of these statements under sections 161 and 164 Cr. P.C. made by witnesses for the prosecution with which the counsel for the principal accused had tried to confront them. This was done presumably because the defence of the two accused appears to be identical.

300. When the first question was put to the said accused in his examination under Section 342 Cr. P.C. he stated that since he was boycotting the proceedings he would not be offering any defence. He would, however, make a statement only about the reasons why the present case was fabricated against him and why he apprehended that he would not get fair trial and justice in this Court.

301. A reference to the last point was entirely uncalled for since the accused had already submitted a number of petitions making false, baseless and scandalous allegations against the Court which had been disposed of. These allegations were not at all relevant to the statement under Section 342 Cr. P.C. Yet if the accused considered it necessary to harp on the same tune it must be only with the intention that his

calumnious and slanderous statement may receive publicity in open Court as well as in Press. This was the object with which he wanted the last petition for transfer to be heard in Court.

Now no Court much less a superior Court can allow litigant to challenge before it its fairness, integrity and impartiality, or to scandalise it, and to go on repeating with impunity, scandalous and libellous attacks on Judges which are calculated to lower the authority of the Judges and to malign them. If this is allowed it would shake the public confidence in the administration of justice. In exercise of the discretion vested in the Courts by the proviso to Section 352 Cr. P.C. the proceedings were therefore directed to be held in camera.

302. Next day when the Court assembled the principal accused showed surprise that the Press and the public had been excluded from the Court. He emphasised that it should be an open trial. His attention was drawn to Section 352 of the Criminal Procedure Code which confers a discretion upon the Court to order at any stage of any particular case if it thinks fit that the public generally or any particular person shall not have access to or be or remain in the room or building used by it. The accused stated that he would consult his lawyers on the question whether the proceedings can be held in camera, it was pointed out to him that he had already given up his lawyers. The next questions under Section 342 Cr. P.C. (Question No. 54) was then put to him. Instead of answering the question he dictated a statement covering more than 9 pages in which he amongst other things attacked the Court's impartiality and the legality of the order holding the trial in camera.

303. At the end of this irrelevant address the Chief Justice advised him to answer the questions since it was in his own interest to do so and assured him that in case he agreed to make a statement all questions would be put to him again. He requested for time to consult Mr. Yahya Bakhtiar and Mr. D. M. Awan. The case was, therefore, adjourned to the 28th of January, 1978 to enable the accused to seek legal advice.

304. The accused met his counsel Mr. Yahya Bakhtiar for 3-1/2 hours on 25th January, 1978. He again met his counsel in jail on the next two days. However, he submitted an application for copy of the order for holding the proceedings in camera and copies of his statements recorded on 24th and 25th of January, 1978. The copies of the order as well as his statement made on 24th January, 1978 were supplied to him on the 28th January, 1978. The copy of the statement made on 25th January, 1978 could not, however, be supplied to him since it contained scandalous and scurrilous remarks against the Court. On 28th January, 1978 the accused again requested for further time to consult his counsel on the question whether the proceedings could be held in camera. It was pointed out to him that he was given an opportunity to see his

counsel only on the question whether he would like to make statement under Section 342 Cr. P.C. The Court, however, agreed to give him five minutes for this purpose.

306. The Court re-assembled after about half an hour. The accused stated that his counsel had by then hardly read a few questions out of the statement made on the 24th January, 1978, and the time given to him was insufficient for advice. The Court did not agree to any further adjournment since the reading of his earlier statement under Section 342 Cr. P.C. was not material for tendering advice on the question whether he should answer questions particularly when My Lord the Chief Justice had assured him that all the questions will be put to him again in case he agreed to answer them. When the next question was put to the witness he again dictated a statement almost repeating what he had already stated on the 25th January, 1978. This statement covers more than eleven pages. Thereafter he did not answer any question put to him.

307. After his statement was recorded, the said accused was asked to sign it, but he refused to do so. He was asked to read the statement. On his inquiry whether he could correct the typographical or grammatical errors, he was told to make any correction for so long as the substance of the statement was not changed. He wrote certain uncalled for and incorrect remarks that the statement might not have been complete.

308. Thereafter the accused sent an application through the Superintendent Jail, in which he alleged that his statement was not correctly and completely recorded. This application was dismissed since the statement had been typed on the dictation of the accused himself, and the allegations levelled in the petition were absolutely false.

309. On the 25th of January, 1978, a few supporters of the principal accused demonstrated against the holding of the Court in camera and created disturbance outside the Chambers of my Lord the Chief Justice. In view of the possibility of such disturbances occurring in future, it was ordered that the proceedings of the trial shall continue in camera.

310. On 7-2-1978 after the defence evidence had been recorded, the accused was asked whether he would like to cross-examine D.W. 4 who had been produced on behalf of the three confessing accused. The accused stated that he would not cross-examine him but make a statement on his statement. He was allowed to do so although he had no right to make such statement after the close of his statement under Section 342 Cr. P.C. He dictated more than eleven pages to the typist and repeated all that had been said by him on the 25th and 28th of January, 1978 and also attacked the order to continue all further proceedings in camera. Thereafter he refused to even read or sign the statement.

THE PAKISTAN TIMES

Lahore, March 22, 1978

JUSTICE IN ISLAM

Lest people should overlook two important points which emerge from the Lahore High Court's unanimous judgment in the Nawab Mohammad Ahmad Khan murder case, we would like to bring them into focus. They have a relevance in the context of Islamic polity we are trying to build. The first point relates to the concept of justice in Islam. There is hardly a system which preaches or practises the concept in a purer or more objective sense. Islam takes justice in its total, pristine meaning. Justice, in fact, is the basis of the social organisation envisaged by Islam. It guarantees equality among all men, and as a first pre-requisite, it lays down that there is no difference between the highest and the lowest before law. In this respect, even a head of government or State has no more privileges than the humblest of citizens, and he is liable to be summoned to account for transgressions like any other man. All this does not simply belong in the realm of theory. There are many examples in Islamic history where the highest or their sons and other close relations have been taken to task for violation of society's norms in the same way as any ordinary citizen could be. Justice in Islam is unqualified and untrammelled; there are no riders and qualifications attached to the legal code meant to enforce the principle. The concept of special privileges and immunity is unknown in Islam. Seen in this light, Islam would appear to be much more progressive than the so-called modern, liberal politico-constitutional systems in which the rulers enjoy certain special freedoms from the operation of ordinary laws

and whose impeachment even for proven misdemeanours is well-nigh impossible in the normal course.

The second point which flows from the first relates to the responsibilities and attributes of authority. Islam does not believe in the concept of rulership as it is understood in the modern sense. In a society based on the principles of Islam there is no ruler and no ruled as these terms are used and interpreted in 20th century political terminology. There is no such inherent distinction. Of course, there are some who have to run the affairs of State. But they do not have unlimited authority; they wield only as much power as the Millat allows them. They have more responsibilities but no more powers than the ordinary citizen. In other words, authority in Islam is a sacred trust. Under the Islamic system, the seat of power is not a bed of roses but a crown of thorns. For it is not, and cannot be used, as an instrument for satisfying one's power-lust. Instead, in Islamic polity only those can aspire for the responsibilities of governance who are more pious and honest than others and, once in the seat of authority, are ready to work harder and make sacrifices and suffer privations in the service of the people. In all matters—temporal and spiritual— the leader is expected to set examples for others to follow. Anyone lacking in these attributes is not qualified to hold office. Again, no one however powerful can get away with violations of law or misuse of power.

THE PAKISTAN TIMES

Lahore, March 22, 1978

'BAKHTIAR'S VIEWS AMOUNT TO CONTEMPT'

KARACHI, March 21: The Vice-Chairman, Pakistan Bar Council, Mr. Ali Ahmad Fazeel, in a statement today said he was surprised to read the interview reported to have been given by Mr. Yahya Bakhtiar to the representative of "New York Times" wherein he exhorted building up of international public opinion to pressurise saving of Mr. Z.A. Bhutto from the gallows.

Mr. Fazeel said Mr. Bakhtiar is also reported to have publicly made "comments" on the judgment and passed "remarks" on the Judges who were party to the judgment.

He said: "Any one aggrieved by a judicial pronouncement can go in appeal to the next higher court rather than build up public opinion inside or outside the country for undoing the judicial pronouncement and achieving a result contrary to the verdict of the court.

"It is least expected of a professional man specially one who is reported to have been entrusted with the task of filing appeal in the matter to exhort people to non-judicial process, and by conduct or words impair the integrity and impartiality of the judiciary.

"The independence of judiciary is to be jealously guarded for security of the society and stability of the country rather than be sacrificed for political aggrandisement and temporary sensationalism. Men may come and go but institutions like judiciary go for ever as such. Let nothing be done directly or indirectly to shake confidence in judiciary and let the stream of justice flow unsullied and take its own course."

Mr. Ali Ahmad Fazeel said: "Passing remarks on a judge in a matter connected with the performance of his judicial function is not only against professional ethics but is also cognizable under the Contempt of Court Act, 1976, which incidentally was passed during the tenure of Mr. Yahya Bakhtiar as Attorney-General for Pakistan. Judges not being fully free to defend themselves are entitled to receive the support of the Bar against unjust criticism and clamour, as provided by 'canons of professional conduct and etiquette' incorporated in Legal Practitioners and Bar Councils Rules, 1976. Causing publication in newspaper by an advocate as to anticipated litigation is not only in bad taste but may also interfere with the fair trial in the courts and prejudice the due administration of justice.

"The legal fraternity is committed to supremacy of law and judicial independence and it is rightly expected of us that we will not be a party to any thing which may directly or indirectly shake confidence in the judiciary or lower it in estimation of people. Let nothing be done to hamper free dispensation of justice and compliance with the due process of law irrespective of the personalities involved."—APP.

DAWN

Karachi, March 23, 1978

BAR BODIES SLATE FOREIGN INTERFERENCE

The Karachi High Court and Rawalpindi Bar Associations have expressed concern at the interference in the internal affairs of Pakistan by foreign elements.

A resolution adopted unanimously at a meeting of the Managing Committee of the Karachi High Court Bar Association, said that the reported appeals for clemency of the principal accused recently convicted by the Full Bench of Lahore High Court in Nawab Mohammad Ahmed Khan murder case constitute an "uncalled for interference with the judicial process and institutions of this country."

It urged them to respect the sanctity of the verdict of the highest judicial institutions of our country.

It reiterated its "absolute and unqualified confidence in the judicial institutions of this country which further enjoy the full confidence of the people at large."

By another resolution, the Association noted with concern the reckless and unwarranted statements made by Mr. Yahya Bakhtiar, the former Attorney-General of Pakistan, in an interview to the New York Times imputing impropriety to the learned Judges of the Lahore High Court.

It unequivocally condemned the suggestions of the said counsel soliciting external pressures on Pakistan and a course of action which may affect the eventual disposal of an appeal if and when filed in the Supreme Court of Pakistan in the said case.

In yet another resolution the Association said it considered imperative to take strong exception to the highly unwarranted communication reported to have been addressed by the Delhi Bar Association to the Secretary-General, United Nations, and countermands the same by sending a copy of this resolution to the said Secretary-General of United Nations to put the record straight.

The resolution said, it viewed with grave concern the resolution reported in the Press to have been passed by the Indian Bar Association (Delhi Bar Association) questioning the independence and integrity of the Lahore High Court which tried the recently concluded Nawab Mohammed Ahmed Khan murder case.

PINDI BAR

The Rawalpindi Bar Association at its emergent meeting held on Wednesday viewed with concern the immoral and unethical interference in the internal affairs of Pakistan by certain foreign elements.

A resolution passed by the Association said that it was against the accepted principles of non-interference in the internal affairs of a sovereign state.

The resolution said: "This principle is also recognised as one of the basic factors in the inter-State relations by the United Nations Charter.

"We have utmost faith in our Judiciary and this nation shall not brook any interference in the normal judicial proceedings. This interference revolts against the very idea of justice.

"We resolve to stand united against any such interference which can also create a very serious reaction. We are also aware the judicial proceedings do not conform to pressure of any kind. Every one is equal before law and this is what our religion also teaches us.

"We also appeal to the national Press not to give any publicity to such news, while the matter is still subjudice."—PPI.

THE PAKISTAN TIMES

Lahore, March 23, 1978

FOREIGN PRESSURE, SUBVERSIVE ACTS DEPLORED: URDU DAILIES COMMENT ON H.C. VERDICT

Almost all national Urdu dailies have commented on the judgment of the Lahore High Court in the murder case of Nawab Mohammad Ahmad Khan and observed that the "historic" verdict has upheld the rule of law and raised the prestige and integrity of higher courts.

While deploring the subversive activities in the name of protest, these newspapers have made a fervent appeal to all friends and well-wishers in foreign lands not to pressurise Pakistan through their appeals for commutation of death sentence against Mr. Bhutto and four others.

The daily "Hurriyat" of Karachi in its editorial March 20 observed that this case is unique in world history for the reason that the main accused was all powerful President and Prime Minister of a free and independent country only a short while before the hearing of the case. He was not only the Prime Minister at a time when the murder took place but also the report accusing him of being the main culprit was filed when he was Prime Minister and had become a terror for the whole country.

The Paper adds: "In several countries former heads of Government have been

prosecuted and punished. But this case is quite different from others as it is not of a political nature but concerns a most heinous crime like murder. Moreover, it was referred to an open and ordinary court instead of submitting it to a military court. The condemned persons were allowed to use their right of appeal. The case was not filed by the Government but pursued on the basis of a report of an individual."

The Paper also refers to other political murders and writes:

"There have been political murders in the world, but in the days of Bhutto there have been so many political murders that history cannot cite such an example. Those who were murdered included people of all ages and of all regions belonging to all sections of public opinion.

"There have been dozens of murders like that of Abdus Samad Achakzai and Asadullah Mengal which are still shrouded in mystery. About Asadullah Mengal the most horrifying report is that he was buried alive. God knows the truth. One cannot say when the details of such crimes come to light and culprits are apprehended. Unlike other cases, in this case nothing remained hidden because some accused confessed the guilt and disclosed all the details."

The Paper adds: "Death sentence is a depressing news for peaceful citizens whoever may be the condemned person, but this depression is nothing compared to the seriousness and brutality of a murder. Death sentence is awarded not because a murder has occurred but because the murder should not have been committed."

"Hurriyat" concludes that Mr. Bhutto not only vitiated the country's politics but also gave a blow to its social and moral values during his six-year rule. Now the last chapter of his political career forms a unique part of history.

"The High Court judgment has raised the prestige of the courts in the country," was the comment of daily "Jehad" of Peshawar. Soon after the announcement of the judgment by the High Court, the Paper came out with an editorial saying "the judgment would strengthen the belief of the people that no ruler can escape the law if he is involved in the misuse of power and commits crimes." The Paper described the judgment as "a healthy precedent for the rule of law in the country."

Writing under the heading "Retribution", the daily "Mashriq" of Lahore, in its comment observed that the verdict would be remembered as a "historic document" for it has a lesson for those who come to assume power on the soil of Allah. Those who assume the leadership of a nation hould prove to be the true custodains of lives

and honour of the masses. But if the hands of the same persons are besmeared with blood of innocent people, then they would have to face the consequences here and Hereafter. This is the law of retribution.

The editorial concludes that the power-intoxicated who forget this law of nature eventually get the punishment they deserve.

In its editorial captioned "Court Procedure", the daily "Nawa-i-Waqt" in its issue of March 22 has expressed the view that the adoption of legal procedure and unlawful course at the same time is such an act that can hardly be justified. The Paper says after the announcement of the judgment of the High Court the unlawful activities resorted to at certain places are not unexpected in view of the temperament of the affected party. The judgment of the higher court given after observeing all the legal requirements has to be honoured; otherwise, the basis of implementation of law cannot be sustained which ensures real peace and justice and civilised contented life of a society.

The Paper further says one's individual sentiments and sympathies are alright, but to discard reason in such a fashion and indulge in subversive acts in a deliberate manner cannot be accepted as a tolerable thing. The fact is that it is not only the right but also basic duty of the law-enforcing machinery to deal with it according to law.

"Imroze" has advised Mr. Bhutto that he should not abandon his right of appeal before the Supreme Court. While confining itself to the future legal proceedings the Paper says after dissociating himself from Ayub Khan, Mr. Bhutto emerged as a popular leader of the masses and it is an admitted fact that even today he has got supporters in the country who would like to see their leader filing an appeal against the High Court judgment.

The Paper has welcomed the present process of accountability. It adds: It would be no exaggeration to say that the case against the ousted Premier has opened a new chapter of accountabilities in Pakistan. What used to happen in the past was that the rulers used to hide the crime of their predecessors and thus people with lesser influence and status were caught, while big personalities had nothing to fear. The Chief Martial Law Administrator has also announced that he would welcome his own accountability in the same way as it is being done in respect of the deeds of the Bhutto regime.

Another Paper of Lahore, "Maghrabi Pakistan", which is also coming out from Bahawalpur and Sukkur, observes: The true picture of the character of this person

(Bhutto) has fully emerged. He ruled the country for five and a half years as a despotic ruler and turned it into a hell. We wish to point out that in the name of Islam, democracy and socialism he deceived all sections and classes of people in the 1970 election and created discord throughout the country.

The Paper concludes with the appeal to the nation: "It is our duty to accept and honour the supremacy of law and concentrate on efforts at improving the deteriorated conditions prevailing in the country."

The appeal made by some leaders of friendly countries urging the commutation of the death sentence is the subject of the editorial of the daily "Jang" of Karachi.

The Paper says that such an appeal was neither proper nor advisable, for the learned and honourable Judges of the Supreme Court who would not like to be influenced or pressurised in any way by any quarter. Every citizen of Pakistan could have the same feeling. It is just possible that in view of these foreign efforts, Mr. Bhutto may prefer not to file an appeal in the Supreme Court.

The Paper adds: "Had the case been of political nature and had some military court given decision, there would have been no appeal in the Supreme Court. In that case our friendly countries would have been justified in making such appeals. Everyone knows that the ousted Prime Minister was accused of killing a respectable citizen and the accusation was made during his regime by the bereaved family."

Referring to the effort by certain quarters in and outside the country to give political colour to the case, the paper makes it clear that the case is confined to the murderer and the relations of the murdered who sought justice. "Then, how can political motives be attached to it, and how can an appeal be made that since the criminal has rendered great services, he should be acquitted?" This means that there should be two standards of justice: one for those criminals who have rendered great services, who have held key Government positions and belong to a big family.

In the end the editorial appeals to friends and well-wishers not to make such appeals and allow the law of the land to operate according to justice and high traditions of Islam.

MORNING NEWS

Karachi, March 25, 1978

MORE CONDEMN BAKHTIAR'S REMARKS AGAINST JUDGES

RAWALPINDI, March 24: Chaudhri Zahur Ilahi, a leader of Muslim League (Pagaro Group), has slated the reported remarks allegedly made by Mr. Yahya Bakhtiar against the Judges of the superior courts, which, he said, amounted to "grossest" contempt of court.

Chaudhri Zahur Ilahi in a Press statement said: "....by trying to muster support abroad for Mr. Bhutto, Mr. Yahya Bakhtiar has done most severe damage to Pakistan."

Chaudhri Zahur Ilahi urged the friends of Pakistan abroad not to believe in the propaganda of Mr. Yahya Bakhtiar.

He said that just as they had not interfered with the atrocities committed by Mr. Zulfikar Ali Bhutto because it was an internal affair of Pakistan, they should not appeal now for granting clemency to Mr. Bhutto because it was too an internal affair of Pakistan.

GUJRANWALA BAR

An emergency meeting of the Gujranwala Bar Association has unanimously adopted a resolution declaring that the judgement given by a Full Bench of the Lahore

High Court in the murder case of Nawab Mohammad Ahmed Khan to Mr. Bhutto and four others is correct.

The resolution said that the right to appeal against the judgement has been given to Mr. Bhutto.

Pakistan is an independent country and no other country has the right to interfere in its internal issues.—APP/PPI.

THE PAKISTAN TIMES

Lahore, March 26, 1978

MUFTI MAHMUD SAYS......DEATH FOR BHUTTO JUDICIAL VERDICT

MULTAN, March 25: PNA Chief Maulana Mufti Mahmud today said that death sentence to Mr. Z.A. Bhutto was a judicial verdict and he was being punished not as a matter of revenge but on charge of murder.

He said no country could interfere in our internal affairs. Those brotherly countries which have issued appeals in this regard have done so only because of some misunderstanding.

He said during the PNA movement last year, Mr. Bhutto was responsible for killing hundreds of people. The countries which were now issuing appeals for Mr. Bhutto had not asked Mr. Bhutto to desist from murder of innocent people, he said.

Meanwhile, the Secretary-General of Jamiatul Ulema-i-Pakistan, Maulana Abdul Sattar Khan Niazi, has appealed to the Heads of Muslim States to avoid issuing clemency appeals in favour of Mr. Bhutto sentenced to death for murder.

In a statement issued in Lahore on Saturday, the Maulana said that it was not a matter of personal relationship but the question of the supremacy of law.

MORNING NEWS

Karachi, March 27, 1978

HUMANE OR SENTIMENTAL?

There has been some sentimentalising, amongst the intelligentsia particularly, about a probable inglorious end to what could have been a glorious career. The sentence of death which hangs over Mr. Bhutto has struck a chord of sympathy in many hearts even though clear heads can find little to substantiate the response.

To a certain extent, all of us have guilty consciences about something or the other, for we are all human. The tendency to err, to exploit, to press an advantage, to profit, is one most of us have to grapple with at one time or another on a greater or smaller scale depending on circumstance and opportunity. Very few of us could survive scrutiny if conscience were sole judge. But most of us manage to stay within the prescribed limits of man-made laws. We hesitate to pronounce sentence or pass judgement in personal terms, but this moral humility does not impede recourse to legal redress if the bounds of law are transgressed.

Somehow, the magnetism of Mr. Bhutto's personality and the fact that he was a public figure much exposed by the media makes the impact of the judgement on him personal. Someone we virtually feel we know might be going to the gallows, not just an anonymous criminal with whom none of us identify. This is the root of the response. The reaction has a similarity to the feeling that people have when a calamity

occurs in their own circle: it happens to "others" all the time, they do not expect it to happen to someone they know themselves though. The dimension of the calamity is neither more nor less but a sense of identification makes personal disaster seem less remote, almost a frightening likelihood. Apprehension overflows in pity.

But the unfortunate circumstances clouding Mr. Bhutto's future are not the result of mishap, random event or cruel fate. The dramatic overtone is one of Nemesis, not tragedy. His is the punishment prescribed and extracted by society from a man who infringes its laws.

There is an element of egoism in the reaction of pity: a smug, comforting assumption of superiority in being able to give pity to a man before whom we once trembled. There is also a relieved re-assertion of normal humane values. We do not have to combat fascist terror right now, and can reasure ourselves about the return to the norms of civilised society by allowing ourselves to be compassionate.

Society is protected by its laws, and so this "spoilt child" emotive reaction is not dangerous. But it is uncalled for. Justice is blind: dispassionately judges the act, not the individual. It is an awesome process. A salutary dread of stepping beyond the pale is a more edifying reaction to its workings, than a sentimentalising over the grievous state of those who disregard the law.

MORNING NEWS

Karachi, March 27, 1978

CLEMENCY APPEALS ILLOGICAL, SAYS BEGUM WALI

ISLAMABAD, March 26: Begum Nasim Wali Khan said today that law had to take its own course regardless of the status of a criminal.

"Otherwise, there could be no justice," she said before leaving here for London by air with her husband.

She said the appeals for commutation of the death sentence awarded to a politician by the Lahore High Court were "illogical" and against the basic concept of justice, democracy, and Islam. "Do you want to allow politicians to murder their adversaries whenever they think it necessary without caring for law or human lives?" she asked adding that a murderer is a murderer whether he is a politician or not, internationally known or unknown.

Begum Nasim Wali Khan said, on the other day in Lahore, three persons, involved in Pupoo murder case, were hanged and nobody protested.

She said people of Pakistan had full faith in courts of law and respect their verdicts. She alleged that certain paid miscreants were involved in sabotage cases. She said such elements had been exposed and law and order situation, by and large, throughout the country was normal.

TUFAIL

The Amir of the Jama'at-i-Islami, Mian Tufail Mohammad, has said that clemency appeals on part of some Heads of States urging upon the President to commute the death sentence passed on Mr. Z.A. Bhutto, were unnecessary and an interference in the internal affairs of Pakistan.

He said that Mr. Z.A. Bhutto was tried by a Full Bench of the Lahore High Court which conducted the trial for about six months to give its verdict.

He said that it was unreasonable to seek pardon for someone convicted of murder by a proper court.

He said that judiciary in Pakistan was the most fearless in the world and nobody had the right to challenge its verdict.

He said Mr. Bhutto did not deserve any mercy or leniency.

He urged upon the heads of foreign States not to make appeals for mercy which might be interpreted as interference in the internal affairs of Pakistan and instead wait for the decision of the Supreme Court which was considering appeals of all the five accused including Mr. Bhutto.

MORNING NEWS

Karachi, March 28, 1978

FOREIGN APPEALS DUE TO LACK OF INFORMATION: NAZIR

LAHORE, March 27: Chaudhri Nazir Ahmad Khan, a former Attorney-General and President of Al-Ahibba, said yesterday that comments in certain foreign quarters and appeals from abroad regarding Mr. Z.A. Bhutto's trial were based on lack of information.

In a Press statement, he said: "Never before in the history of the country has anybody been tried by such a high judicial tribunal. During the trial all legal facilities were provided to the accused to prove his innocence and he was defended by lawyers of his own choice whom he later chose to give up for reasons best known to him. He had the opportunity to produce defence but he voluntarily declined to do so. This was his own decision and he is the best person to know the reason for this decision."

He said the offences for which Mr. Bhutto was tried were not of a political nature but are mentioned in the penal statute of the country.

He said that there was some talk about giving the principal accused political assylum in some foreign country. This, he added, was entirely misconceived as Mr. Bhutto was tried under the penal law of the land as an ordinary accused and the case did not involve any political issues.

THE PAKISTAN TIMES

Lahore, March 28, 1978

NO DISTINCTION BEFORE LAW

LAHORE, March 27: Mr. Justice (Retd.) B.Z. Kaikaus in a statement here yesterday said that the recommendations for commuting the punishment of Mr. Bhutto meant that there was one law for those who governed and the other for those who were governed.

Every day, he pointed out, persons were being sentenced to death for offences much less reprehensible than the crime committed by Mr. Bhutto.

Mr. Kaikaus said that if the recommendations for commuting Mr. Bhutto's punishment were accepted, it would grant liberty to all the Prime Ministers to have their opponents killed without apprehension of facing the death penalty.

The former Supreme Court Judge observed that in Islam there was no distinction between men and nothing could be more un-Islamic than that a person should get the benefit of his worldly status.

The Holy Prophet of Islam had forbidden such treatment, he added.

One reason for reduction in punishment, he said, has been stated to be that this

was a poitical crime. If an oppressed person kills a tyrant ruler, one can very well understand the ground for leniency of punishment, but if the tyrant ruler uses all his political power to kill an oppressed person it can hardly be urged that he should be dealt with leniently, he added.

Two Jamaat-i-Islami leaders, Mr. Mahmud Azam Farooqi and Syed Munawwar Hasan, have welcomed the visit of the high-powered delegation from Tripoli headed by Mr. Obeidi.

At the same time, they appealed to Mr. Obeidi to inform the Libyan Government of the correct situation about the death sentence to Mr. Bhutto. They were sure that if correctly informed, the Libyan Government would withdraw its appeal for commuting Mr. Bhutto's sentence.

Mr. Bhutto, they said, was responsible for killing innocent people while in authority.

Sardar Abdul Qayyum Khan, President of All-Jammu and Kashmir Muslim Conference, said in a Press statement issued in Rawalpindi that disturbance was being created to harm law and order and the solidarity of Pakistan on the pretext of the death sentence passed against former Prime Minister Zulfikar Ali Bhutto by the Lahore High Court.

The recent incidents in this connection "are not only regrettable but condemnable," he said.

He said movements for the enforcement of rule of law and for the solidarity of a country had been common "but this movement is strange which is being carried on to destroy these values."

If resort to hooliganism to stop the process of law were made a tradition, then there could be disturbance against any court decision and no court could escape from such a situation, he feared.

Referring to appeals made by some countries in this respect, he said, some of them manifested lack of information about the correct situation in Pakistan.

Sardar Qayyum appealed to all patriotic elements to realise the gravity of the situation and not to allow the solidarity and security of the country to fall prey to negative and disruptionist hooliganism.—APP/PPI.

THE PAKISTAN TIMES

Lahore, March 31, 1978

LHC JUDGMENT IN MURDER CASE: URDU PRESS ON DICTATES OF JUSTICE

Some more national Urdu dailies have editorially taken strong exception to foreign appeals for commutation of the death sentence passed on Z.A. Bhutto by the Full Bench of the Lahore High Court.

These Papers have also reminded Bhutto's followers that he has filed an appeal in the Supreme Court. A peaceful atmosphere is, therefore, absolutely necessary for smooth hearing of the case. They have warned that subversive activities will surely boomerang on those indulging in them.

The daily "Jasaarat" of Karachi in one of its recent editorials has again deplored the appeals made by some foreign leaders. The Paper has made it clear that all possible care was taken and is being taken in this case to ensure justice. The case was tried not by a military court, but by the High Court under the ordinary law of the land. "Any concession will militate against the dictates of justice, which we cannot support," the Paper adds.

As for the independence of the judiciary, a correct assessment, the Paper says, may not be possible in the countries from where the appeals are coming. It would,

therefore, be in the fitness of things if these foreign countries sent delegations to study the situation on the spot. The Libyan delegation, which visited Pakistan recently, must have noticed that when the CMLA was asked by the Court to explain one of his Press statements, he did so and clarified that he had no intention whatsoever of interfering in or belittling the authority of the Court.

Citing instances of innocent people executed in some countries on political grounds, the Paper maintains that certain brotherly Islamic States have been carried away by false propaganda against Pakistan. They must be told that their appeals are based on tendentious reports and distorted accounts of the case.

In another editorial captioned, "Blood Money" (March 25), the Paper points out that the People's Party and its followers have from the very beginning tried to give a political twist to the murder case with a view to making it look doubtful. But these devices cannot succeed, as the details have revealed the heinous and horrifying nature of the murder case.

The Paper tells the foreign dignitaries that there cannot be two standards of justice. Justice, it says, is the distinguishing feature of an Islamic society.

Another daily, "Wafaq", published from Lahore, Rawalpindi, Sargodha and Rahimyar Khan, has stressed the need to refrain from commenting on the High Court verdict and allow the highest court to hear the appeals in a calm and peaceful atmosphere. It has advised those engaged in subversive activities to take to the path of sanity. Since Bhutto has filed an appeal in the Supreme Court, his followers and well-wishers should show patience and behave in a civilised manner. Any other course will create a law and order situation.

In an editorial captioned, "Independence of Judiciary in Pakistan", the daily "Jang" has observed that after Gen. Mohammad Zia-ul-Haq's recent interview to foreign media, there is no justification for alleging that the judiciary in Pakistan is not free.

The fact is that our judiciary has maintained its freedom even in difficult times. Under the current Martial Law rule, things have become easier for the courts to uphold the traditions of independence.

"Nawa-i-Waqt", in its editorial of March 26, has commented that after Gen. Zia-ul-Haq's interview to Independent Television News of London, in which he made a

lucid analysis of the case, there cannot be two opinions about the independence of the judicary in Pakistan.

The Paper says that the Government at present is headed by a person who has a strong faith in the supremacy of law. This is clear from his recent remarks that he would be prepared to subject himself to accountability.

Ferozsons